




3. On or about June 14, 2010, I called counsel for plaintiff in the *Kretsinger* Action to propose that the actions be consolidated and the counsel work cooperatively to prosecute the cases. Specifically, I intended to, and ultimately did, propose that one of the counsel for Plaintiff Shane and counsel for plaintiff in the *Krestinger* Action seek appointment as interim co-lead counsel and that work on the cases be done an equal, 50/50 basis. I was unable to reach counsel at that time and left a voicemail.

4. The following day, June 15, 2010, I received a voicemail from counsel in the *Krestinger* Action in which counsel proposed consolidating the actions, and that they serve as interim lead counsel, with counsel for Plaintiff Shane accepting a lesser role. Specifically, counsel for plaintiffs in the *Kretsinger* Action proposed that counsel in the *Shane* Action accept a 25% interest in the case, subject to an upward adjustment of up to 30% based on the number of hours actually worked on this case.

5. I had subsequent conversations with Edward W. Ciolko of Barroway Topaz Kessler Meltzer & Check, LLP, counsel for plaintiffs in the *Kretsinger* Action, during which we discussed our respective proposals and positions. Unfortunately, counsel have been unable to reach any compromise of their respective positions.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: August 17, 2010



TIMOTHY J. MACFALL